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November 30, 2009

Commissioner Gary Pierce
Commissioner Paul Newman
Commissioner Sandra Kennedy
Commissioner Bob Stump

Re: Proposed change to the calculation of energy savings in the Draft Energy Efficiency Standard ("EES") Rulemaking and clarification of Commission's intentions regarding addressing future recovery of fixed costs associated with the EES; Docket No. RE-00000-09-0427.

Dear Colleagues:

Having reviewed the proposed Energy Efficiency Standard Rulemaking, I believe the Commission has before us an excellent proposed set of rules that will dramatically advance the amount of energy efficiency conducted by our state's utilities. However, I write today to suggest several changes to the draft rules that I believe would comport more closely with the intentions of Commissioners as stated during the workshops, and that would assist in optimizing the value of the energy efficiency rules for our state.

First, I would like to propose that the draft rules be altered so that the energy savings from EES measures implemented by utilities and calculated each year by Staff and the utilities are based not on a baseline year of 2005, but rather historically, on the previous year's retail sales levels for each affected utility. Based on the comments of the Parties to the rulemaking docket, I believe that retaining the 2005 baseline year as the yardstick for measuring energy savings would result not in the intended 20 percent energy efficiency target that I and other Commissioners had originally envisioned and discussed in the workshops, but rather approximately 13 percent energy efficiency by 2020.¹

It is my view that utilizing an annual target based on the prior year's energy retail sales would promote greater energy savings (closer to an actual 20 percent by 2020) and would be relatively easy to calculate. In fact, the Commission already uses annual retail sales as the mechanism for calculating the requirements under the Renewable Energy Standard ("RES").² Additionally, as

¹ See the analysis of the Southwest Energy Efficiency Project ("SWEEP") in its comments to the proposed draft EES Rules regarding the levels of energy savings that would be achieved under the draft rules. According to SWEEP, the draft EES Rules' use of a 2005 baseline would lead to 13.4 percent energy savings by 2020 at APS, and 15.9 percent at TEP.

² Additionally, SWEEP indicated in its comments that most states that have adopted an EES have done so based on yearly retail sales levels.

SWEEP has noted in its comments, a baseline of 2005 for the EES would leave Arizona utilities in widely disparate positions regarding the amount of energy efficiency required of them.

Because it would lead to an overall energy efficiency standard that comports with the one we have been discussing for most of the workshop process, I do not believe this change would require any delays in our announced rulemaking schedule, and am hopeful that it can either be incorporated in the draft EES Rules prior to a Commission vote, or at Open Meeting pursuant to amendment.

Additionally, several Parties to the docket have filed comments requesting that the Commission clarify its intentions regarding the issue of recovery of fixed costs associated with the EES. Specifically, Parties have suggested that the proposed EES Rules include language signaling that the Commission will address fixed costs in a generic docket, or in each affected utility's next rate case. I believe it has been the intention of Commissioners from the beginning of the workshops that this issue be addressed following the conclusion of the rulemaking, particularly if the final rule adopted by the Commission is set at a target as ambitious as 20 percent by 2020. However, in order to assure the Parties that the Commission is serious about resolving the problem of fixed cost recovery, and to ensure a robust effort by the utilities to meet this aggressive proposed EES, I believe that such language should be included in the proposed rule. Specifically, I would suggest that language be included in the Rules that would require the Commission to consider the question of fixed cost recovery associated with the EES in each affected utility's rate case filed after the effective date of the EES rules.

Thank you for your consideration of this matter.

Sincerely,



Kris Mayes
Chairman

Cc: Ernest Johnson
Lyn Farmer
Steve Olea
Rebecca Wilder
Parties to the Docket